APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,700	08/31/2001	Mikio Nagasawa	H-1007	8877

24956	7590	04/04/2006	EXAMINER	
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ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/942,700	NAGASAWA, MIKIO
	Examiner	**Art Unit**	
	Traci L. Smith	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *18 November 2005*.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-10* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-10* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

1.   This action is in response to papers filed on November 18, 2005.

2.   Claims 1-10 have been amend.

3.   Claims 1-10 are pending.

4.   Claims 1-10 are rejected.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6.   Claims1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not enable one skilled in the art to perform the following steps

Claim 1-Simulating estimated service performance: how does one simulate and what is used to simulate?

Claim 3-How does the average time get estimated? What information is used to estimate? What is the basis for the estimation?

Claim 4-claim states calculation and re-estimation there is no initial formula

estimation let alone a second formula that would allow for one skilled in the art to

know how to re-estimate or what to use in the calculations.

Claim 10 recites algorithms with not such explanation in the specification as well

as an arithmetic process with no mathematical computations in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out
> and distinctly claiming the subject matter which the applicant regards as his
> invention.

7.   Claim1-10 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

8.   The claims are generally narrative and indefinite, failing to conform with current

U.S. practice. They appear to be a literal translation into English from a foreign

document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 102

9.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

> (b) the invention was patented or described in a printed publication in this or a
> foreign country or in public use or on sale in this country, more than one year
> prior to the date of application for patent in the United States.

10.   Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by US

Patent 5 732 400 Mandler, et al; System and Methods for Risk-based Purchase of

goods. The examiner has applied the above reference to the claims as the examiner is

best able to understand the claims.

11.   As to claim 1 A method and apparatus for providing information services

comprising a means for controlling brokering and booking resources for offering a

service (the means will be referred to as brokering means hereinafter):

      a.   intervening between resources for information processing services be

offered by a plurality of providers of the resources *Mandler teaches process*

taking place with a broker acting between the buyer and seller.(C. 4 l. 5-7)

      b.   *sellers and a clearinghouse administer service transactions.(C. 3 l. 33-34)*

      c.   said brokering means including resource performance holding credit data

data for the resource comprising the steps of; providers, *Mandler teaches*

teaches the financial clearing house using credit data to establish risk.(C. 3 l. 43-

46).

      d.   said brokering means input performance request specifications of

resources for a user-desired service from the user; simulating estimated service

performance of resources based on said request specifications and said credit

data including resource performance data, thereby allocating one or more

combinations of serviceable resources that satisfy, in the aggregate, said request

specifications; *Mandler teaches receiving a request from user. And upon*

preliminary approval transmit requests to sellers for review.(C. 4 l.20-27).

e.   generating a resource reservation ticket to the user, the ticket including

data that entitles the user to utilize said one or more combinations resources of

said requirements based on said allocations; *Mandler teaches issues a notice of*

the goods being shipped and an invoice so buyer can purchase service.(C. 4 l.

39-43)

f.   and placing an order with the service resource resource providers for said

one or more combinations of resources thereby booking the resources for the

user. *Mandler teaches allowing the user the opportunity to purchase service(C. 4*

l. 51-52).

As to claim 2,

Sets a time during which function and resources are required to run,

Mandler teaches a time frame for the transaction(C. 15. l. 27-28)

wherein the brokering means will issue the respective resource

reservation tickets to plurality of service users (customers), *Mandler teaches*

providing quotes form multiple sellers for request.(C. 7 l. 40-42).

moreover, after successfully reserving resources, brokering means sends

the service performance request specifications, based on which the resources

have been reserved, to the resource service providers of the allocated resources,

Mandler teaches sending Purchase order to seller for the services requested.(C.

7 l. 55-57)

and when resource service providers determine their service resources

required to execute the service in future, the brokering means compares

available function and resources and required function and resources for a

specific period and manages the thus obtained data decide whether the service

providers can provide additional service performance resources. *Mandler*

teaches sellers selected by broker as meeting the performance specifications

and ability to deliver goods. (C. 8 l. 41-44).

12.   As to claim 3 *Mandler teaches transaction ID with a ll information or messages*

associated with the service.(C. 7 l. 25-28). And . Mandler teaches sellers selected by

broker as meeting the performance specifications and ability to deliver goods. (C. 8 l.

41-44).

13.   As to claim 4 *Mandler teaches negotiations between buyer and seller for meeting*

the requirements of the request.(C. 7 l. 55-58).

14.   As to claim 5 *Mandler teaches choosing a seller based on performance criteria*

and quality of goods.(C. 8 l. 41-44).

15.   As to claim 6, *Mandler teaches information used in determining both reliability of*

the buyer and the seller.(C 8 l. 34-40 & 48-50).

16.   As to claim 7 *Mandler teaches determining which resources meet the*

specification of the users request(C. 7 l. 35-37 & 39-41). As well as using credit data in

the determination(C. 7 l .30-31).

17.   As to claim 8 *Mander teaches editing the information from one form of data to*

another using an EDI translator(C. 10 l .20-25). And electronically sending

information(C. 7 l. 53-54). As well as a storage medium(Fig. 2 Ref 45).

18.   As to claim 10 An apparatus for authenticating an authorized service user

comprising a means authorized service user authentication which authenticates that the

user authorized to use service by verifying the validity of the user's resource reservation

ticket issued to guarantee the right the service user and the performance resources to

execute the service, *Mandler teaches receiving authorization and verification of risk*

and approval message user qualifies for services requested.

19.   a first storage means to store said resource reservation ticket data, a second

storage means to store resource allocation information, *Mandler teaches multiple*

database used for storing different information.(Fig. 2 Ref. 45). The examiner takes

notice that even though the reference teaches the use of more than one database the

fact that the applicant claims the data base for storing specific information this

information is considered non-functional descriptive matter. It does not matter what the

type of information is that is being stored. A database is going to store the data

regardless of what the information is therefore the steps of storing would be performed

the same way every time.

20.   a means for communication between said first storage means and second

storage means, *Mandler teahes a communication network(Fig. 1B Ref. 5 and Co. 6 l.*

22-23).

21.   and a means for verifying certificate data which executes predetermined

arithmetic processing based on algorithm for encryption/decryption and other security

purposes for the reservation data and resource allocation data and verifies the validity

of the resource reservation. *Mandler teaches evaluation of credit risk based on a variety of factors.(C. 6 l. 54-56).*

Response to Arguments

22.   Applicant's arguments filed August 23, 2005 have been fully considered but they are not persuasive. Examiner notes applicants amendments to claims 2 and 5 overcome the rejection under 35 USC 112 1st paragraph. Examiner further notes the withdrawal of rejections under 35 USC 101.

23.   As to applicants arguments regarding rejections under 35 USC 112 1st paragraph claim 1

24.   examiner is not persuaded by applicants arguments that the disclosure teaches the items questions in the first office action. As to the question of "simulation estimated service performance" even with the amendment removing "estimated" the examiner maintains the disclosure lacks support for one to reproduce the steps. On pg 12 l. 6 of applicants arguments points to a portion of the specification that teaches "simulation" the examiner notes a "quantitative evaluation" is required, however the disclosure fails to teach what "quantitative" method is required. The "quantitative evaluation" eludes to a need for a calculation which is not present in the disclosure, therefore does not enable one to reproduce the steps of the method. The applicant further argues that the simulation "judges whether the provider satisfies the request". The disclosure fails to identify what is required or deemed necessary to qualify as "satisfying" a request. If a judgement is made this begs the question of are there parameters or is it a subjective

limitation. The applicant further states simulation is accomplished by "required capacity". Again, this is a calculation that is not disclosed and does not enable one to reproduce the steps of the method.

25.   As to applicants arguments regarding the 112 1st rejection of Claim 3- Applicant again is arguing that all limitations of the rejection have been removed. The examiner points to lines 8 and 11 of claim 3 in which estimating is still stated without teaching what is being used to do the estimation.

26.   As to applicants arguments regarding the 112 1st rejections of Claim 4-Applicant states the claim no longer recites recalculation. The examiner agrees with this but also notes that there is still the calculation formula (Ln. 9)that is not taught nor a teaching for what is used for calculations as well as claim 4 lists a "re-estimating" which is understood to be the same as the "re-calculation".

27.   As applicants arguments regarding claim 10 and the use of "algorithms" applicant statement that the amendments made to claim 10 are sufficient to enable one to perform the algorithms the examiner disagrees. Regardless of when an algorithm is determined it still needs to be taught in the disclosure so one can replicate the steps of the algorithm. Claim 10 is an apparatus that is programmed to perform a method it is necessary for one to know how to program the apparatus to perform the steps of the method. A predetermined algorithm is one that is programmed into the system running on the apparatus. An algorithm is a vague mathematical function that has limitless possibilities. The disclosure must teach what algorithm is being used to accomplish the end result.

28.   As to applicants arguments regarding the claim rejections under 35 USC 102(b) the examiner maintains rejection as stated above and reasons below.

29.   As to applicants argument that Mandler fails to teach "requesting specification of resources" emphasizing that "resources" are not taught by Mandler. The examiner notes the term resources as claimed in the application is a broad term and when given it's broadest reasonable interpretation it can include financial resources and information. The same can be said for "resource performance" the performance of a financial product can be included in "resource performance"

30.   The examiner notes the reference teaches using credit to determine risk, this means they are using credit to determine the risk of a "financial" resource, this inherently includes how the resources has performed. A broker does not recommend a resource without reviewing it's historical performance. Therefore, the limitation of "including resource data" does not distinguish over the art, broadly interpreted, credit history is resource data.

31.   As to the applicants arguments that the limitation of "based on said allocation" of how it is determined what is put on the output ticket. This added limitation at the end of the claim is merely restating what had already been in the claim of "thereby allocating one or more combinations of said resources that satisfy, in the aggregate, said request specifications". With this statement the applicant itself implies the resource data is allocated, therefore if they are outputting resource information to the ticket it would have to be the resource information that had been allocated to that user.

32.   As applicant argues the same limitation for claims 3-4 as noted above the same

reasoning for the rejection is applied as well.

33.   As to applicants arguments regarding claims 2-8 do not comply with 37

CFR 1.111(c) because they do not clearly point out the patentable novelty which he or

she thinks the claims present in view of the state of the art disclosed by the references

cited or the objections made. Further, they do not show how the amendments avoid

such references or objections.

Conclusion

34.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time
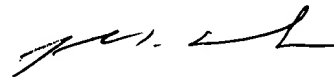
policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Traci L. Smith whose telephone number is 572-272-

6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TLS

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